

COASTAL CONSERVANCY  
Staff Recommendation  
May 27, 2010

**EASTSHORE STATE PARK  
BAY TRAIL EXTENSION**

File No. 03-028-05  
Project Manager: Tom Gandesbery

**RECOMMENDED ACTION:** Authorization to disburse up to \$355,000 to the City of Berkeley to construct an extension of the San Francisco Bay Trail within Eastshore State Park, and, adjacent to the Park a water access ramp at the Berkeley Marina.

**LOCATION:** West end of University Ave, City of Berkeley, Alameda County  
(Exhibits 1 & 2).

**PROGRAM CATEGORY:** San Francisco Bay Area Conservancy

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**EXHIBITS**

Exhibit 1: [Area Map](#)

Exhibit 2: [Project Maps \(A-D\)](#)

Exhibit 3: [Mitigated Negative Declaration and Initial Study](#),  
certified by City of Berkeley January 27, 2004.

Exhibit 4: [Staff Recommendation, dated September 15, 2004](#).

Exhibit 5: [Project Letters](#)

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**RESOLUTION AND FINDINGS:**

Staff recommends that the State Coastal Conservancy adopt the following Resolution pursuant to Sections 31160-31165 of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes disbursement of an amount not to exceed three hundred fifty five thousand dollars (\$355,000) to the City of Berkeley (“City”) to construct an extension of the San Francisco Bay Trail within the Eastshore State Park, and a water access ramp at the Berkeley Marina, subject to the following conditions:

1. Prior to disbursement of any funds, the City shall submit for the review and approval of the Executive Officer of the Conservancy a work program, including a budget and schedule, the names of any contractors to be hired, and a signing plan to acknowledge the Conservancy’s funding for these projects.

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2. Prior to initiating construction of the project, the City shall provide written evidence to the Executive Officer of the Conservancy that all permits and approvals necessary to the implementation and completion of the project under applicable local, state, and federal laws and regulations have been obtained.
3. Conservancy funding for the project shall be acknowledged by erecting and maintaining one or more signs near the project, the design and location of which has been reviewed and approved by the Executive Officer.”

Staff further recommends that the Conservancy adopt the following findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed authorization is consistent with the purposes and objectives of Chapter 4.5 (Sections 31160-31165) of Division 21 of the Public Resources Code, regarding public access improvements to and around the San Francisco Bay.
2. The proposed authorization is consistent with the Project Selection Criteria and Guidelines last updated by the Conservancy on June 4, 2009.
3. The Conservancy has independently reviewed and considered the Initial Study and Mitigated Negative Declaration adopted by the City of Berkeley on January 27, 2004, (Exhibit 3) accompanying this staff recommendation and finds that the project avoids, reduces or mitigates any potential significant environmental effects and that there is no substantial evidence that the project will have a significant effect on the environment, as defined in 14 California Code of Regulations Section 15382.”

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**PROJECT SUMMARY:**

Staff is recommending that the Conservancy grant funds to the City of Berkeley (“City”) for construction of an extension of the San Francisco Bay Trail within Eastshore State Park (“ESSP”) and a water access ramp at the Berkeley Marina, both of which will further implement the ESSP General Plan. Both the trail and access ramp are components of a larger, planned trail project known as the “Bay Trail Extension.” The Bay Trail Extension is an alternative alignment of the Bay Trail that will enable trail users to ride along the shoreline in this area of the ESSP and will include parking, bus stops, benches, and lighting. The land for the ESSP was acquired by the California Department of Parks and Recreation (“State Parks”) and the East Bay Regional Park District (“District”) in 1998; the ESSP holdings are managed jointly by the District and the City of Berkeley.

The trail portion of the Bay Trail Extension to be funded by the Conservancy will be located entirely on State Parks property. State Parks has agreed to give the City permission to build the trail on the ESSP property. The water access ramp for non-motorized vessels (e.g. kayaks, windsurf boards) will be located on land owned and managed by the City, although it is included in the ESSP General Plan and is part of the larger Bay Trail Extension project. Once the entire Bay Trail Extension project is completed, the access ramp will be linked to the Bay Trail. The ramp will be at the Berkeley Marina and adjacent to H’s Lordships Restaurant, which is outside of the ESSP. The land west of the ESSP includes the Berkeley Marina and Cesar Chavez Park, which is owned and managed by the City (Exhibit 2). The City has constructed public works such as roads and park amenities in the past and has the institutional capability to carry out this project.

**Site Description:**

*Trail Alignment:* The proposed trail will run parallel to University Avenue between the road and the Bay connecting with existing pathways at the East Lawn adjacent to the South Sailing Basin. The trail will be approximately 2,700 feet (0.5 mi) in length and 12 feet in width (Exhibit 2-A; 2-B).

The alignment is currently covered with weedy vegetation; the substrate is man-made fill placed by the previous owners, interests associated with the Santa Fe Realty Company or its lessees. The trail is one segment of a longer trail that is planned as part of the Bay Trail Extension project.

The Bay Trail Extension commences at the eastern terminus of the existing San Francisco Bay Trail adjacent to the Sea Breeze Deli and the very prominent pedestrian bridge over Interstate Highway 80. The Bay Trail Extension runs due west, to the City's existing Marina and Cesar Chavez Park. The proposed trail will cross over an outfall of the former Strawberry Creek, necessitating, a prefabricated pedestrian bridge at this point. The trail will be paved with asphalt and will meet ADA standards. (Exhibit 2-B) The trail will connect with existing pathways at the East Lawn adjacent to City's South Sailing Basin, used exclusively for sailing and non-motorized boats (mostly used for kayaking and windsurfing).

*Water Access Ramp:* At the southwestern extreme of the South Sailing Basin the City will construct a water access ramp, referred to in the ESSP General Plan as the "windsurf launch" which will be primarily used by those launching kayaks and windsurf gear (Exhibit 2-C). The ramp will not accommodate motorized vessels.

*Future ESSP Plans:* The trail and water access ramp are a portion of a larger Bay Trail Extension project by the City to run a trail to the Berkeley Marina and add park facilities such as benches, bus stops and lighting. Additionally, the ESSP General Plan goals include improving linkages between existing paths and paved walkways that currently exist within the park, and State Parks is beginning design work on the Brickyard Cove portion of the ESSP which will further enhance the area at the eastern terminus of this trail extension where it connects to the Bay Trail (discussed below).

**Project History:** The ESSP is a relatively new 1,800-acre park that covers eight miles of shoreline, encompassing the cities of Richmond, Albany, Berkeley, Emeryville, and Oakland (Exhibit 1). Southern Pacific Railway acquired much of the tideland along the East Bay shoreline through public auction in the 1800s. Starting in the 1920s and continuing until the late 1960s, parts of the wetland and mudflat areas were filled by a variety of entities. Despite repeated attempts to undertake a variety of development projects, community resistance resulted in land-use stalemates lasting many years. The Coastal Conservancy led a comprehensive East Bay shoreline needs assessment in the 1980s that helped generate strong community support for ESSP. The Park was created in legislation authored by then Assemblyman Tom Bates in 1992. The legislation specified that the park would be owned by State Parks and operated by EBRPD.

*ESSP General Plan:* Once the land acquisition was complete, the District, State Parks, the City of Berkeley and Conservancy began the public planning process for the new state park. The Conservancy contributed \$300,000 toward the planning process which totaled over \$700,000. Eventually in 1998, Catellus Corporation, sold its holdings to State Parks and the District for \$27 million. However, much of the park is tideland leaving approximately 260 acres of terrestrial land. The scarcity of land was keenly noted during the two-year-long planning process as thousands of citizens called for diverse and sometimes conflicting uses for the area. The ESSP General Plan, adopted in December 2002, attempts to balance the public's demands and provides for creation of a "recreational facility harmonious with its natural setting" as called for in the founding legislation for

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the park. The ESSP General Plan provides for a mix of uses from organized sports playing fields to areas set aside for habitat enhancement, environmental education, and passive recreation.

*ESSP General Plan Implementation:* Construction of the project is a further implementation of the ESSP General Plan and demonstrates a strong commitment to ESSP by the City. The Conservancy granted \$80,000 to the City in September of 2004 to prepare the design drawings (plans and specifications) for the trail which was matched by at least \$50,000 of City staffing. The City has obtained all necessary permits and clearances for the proposed project and was also successful in obtaining a construction grant from the Metropolitan Transportation Commission (MTC) earlier this year.

This trail will complement other projects within the ESSP that the Conservancy has supported. In September of 2009 the Conservancy granted \$100,000 to the District to carry out planning of the Albany Beach, located north of the Berkeley Marina (Exhibit 2A). Previously, in May of 2007, the Conservancy granted funds to both the District and State Parks to implement the ESSP General Plan. The District was awarded \$1,472,000 to complete the construction of the third phase of wetland enhancement for the "Berkeley Meadow" (Exhibit 2A). The third phase, which is primarily a habitat enhancement project, will be completed this summer and will be monitored and maintained by the District.

In the same 2007 board action, the Conservancy granted \$120,000 to State Parks for detailed planning and preliminary design of a park around Brickyard Cove (Exhibit 2A). This area, over 30-acres in size, is the area within ESSP planned for the greatest concentration of recreational improvements. The project has been stalled due in part, to the 2008 bond freeze. However, State Parks intends to continue design work starting this summer. The Brickyard Cove and Bay Trail Extension, as well as the existing Bay Trail along the I-80 freeway, will be complementary civil works that will enable more visitors to enter the park on foot or bicycle. The water access ramp included in this grant will provide a safe and additional water access that is much needed within the Marina and will also complement the San Francisco Water Trail, currently being planned by the Conservancy.

### **PROJECT FINANCING:**

<b>Coastal Conservancy</b>	<b>\$355,000</b>
<u>City of Berkeley</u>	<u>\$1,928,000</u>
<b>Total Project Costs</b>	<b>\$2,283,000</b>

The City will fund this project with a grant from the Metropolitan Transportation Commission of the San Francisco Bay Area (MTC). The MTC is providing this funding as a grant under its Transportation Improvement Program (TIP). The MTC's funds are, in turn, derived as part of a block grant received from the Federal Highways Administration as part of the Federal Transportation Enhancement funds (TE) that are administered through the State's Transportation Improvement Program (STIP).

Conservancy funding for the proposed disbursement is expected to be provided by a FY08 appropriation of the "Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006" (Proposition 84). This funding source may be used for projects that promote access to and enjoyment of the coastal resources of the state, in accordance with Chapter 4.5 (the San Francisco Bay Area Program) of the Conservancy's enabling legislation, Division 21 of

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the Public Resources Code. (Section 75060(c)) Thus, these funds are appropriate for construction of a portion of the Bay Trail Extension and a water access ramp that provides non-motorized boat access to San Francisco Bay.

### **PROJECT SUPPORT:**

The project has support from a wide variety of community interests, park constituents, and elected representatives. Supporters include State Assembly Representative Loni Hancock, California Department of Parks and Recreation, Citizens for Eastshore Parks, East Bay Chapter of the Sierra Club, and other individuals and citizens groups. Letters supporting the trail project are attached as Exhibit 5.

### **CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:**

The proposed project is consistent with Chapter 4.5 of Division 21, Sections 31160-31165 of the Public Resources Code regarding San Francisco Bay Area projects. The project is located in Alameda County, one of the nine San Francisco Bay counties as required by Section 31162.

Under Section 31162(a), the Conservancy may award grants that will “improve public access to, within, and around the bay, coast, ridgetops, and urban open spaces, consistent with the rights of private property owners, and without having a significant adverse impact on agricultural operations and environmentally sensitive areas and wildlife, including wetlands and other wildlife habitats through completion . . . of regional bay, coast, water, and ridge trail systems . . . which are part of a regional trail system and are consistent with locally and regionally adopted master plans and general plans”. The proposed trail extension is part of the San Francisco Bay Trail system and is a critical component of ESSP, which is a regionally significant park that includes eight miles of shoreline serving residents of at least five cities as well as visitors to the region. The proposed project will enhance the existing regionally significant open space that is ESSP and is consistent with the ESSP General Plan, East Bay Regional Park District’s 1997 Master Plan, the San Francisco Bay Plan, and the City of Berkeley’s Waterfront Plan. Construction of the trail, as mitigated, will not adversely impact agricultural operations, environmentally sensitive areas or wildlife.

Under §31162(d), the Conservancy may “promote, assist, and enhance projects that provide open space and natural areas that are accessible to urban populations for recreational and educational purposes.” Construction of the water-access ramp will make a natural area, i.e., the San Francisco Bay, accessible to the nearby urban population for non-motorized boating recreation. Thus, the ramp is consistent with section 31162(d).

The proposed project also satisfies each of the five criteria for determining project priority under Section 31163(c) in the following respects: (1) the project is consistent with the ESSP General Plan, East Bay Regional Park District’s 1997 Master Plan, the San Francisco Bay Plan, and the City of Berkeley’s Waterfront Plan; (2) the project serves a regional constituency because it enhances the ESSP, which spans five cities: Oakland, Emeryville, Berkeley, Albany, and Richmond and serves the residents of these cities as well as residents of other cities in the Bay Area and the numerous visitors to the Bay Area; (3) the project will be implemented in a timely manner; (4) the project provides the opportunity to for the City to obtain almost \$2 million in federal funds could be lost if the project is not quickly implemented; (5) matching funds from grantee have been approved.

### **CONSISTENCY WITH CONSERVANCY’S 2007 STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):**

Consistent with **Goal 11, Objective E**, the project consists of constructing an approximately 0.5-mile segment of the San Francisco Bay Trail; and,

Consistent with **Goal 11, Objective L**, the project will yield 0.5 miles of ADA-compliant trail.

Consistent with **Goal 11, Objective K**, in that the access ramp will serve as a launch site for the planned San Francisco Bay Area Water Trail.

#### **CONSISTENCY WITH THE SAN FRANCISCO BAY PLAN:**

The proposed project is consistent with the applicable policies contained in Part IV, Development of the Bay and Shoreline: Findings and Policies, of the San Francisco Bay Plan adopted by the San Francisco Bay Conservation and Development Commission (BCDC) in January 2006.

Public Access Policy No. 8 states:

Access to and along the waterfront should be provided by walkways, trails or other appropriate means and connect to the nearest public thoroughfare where convenient parking or public transportation may be available. Diverse and interesting public access experiences should be provided which would encourage users to remain in the designated access areas to avoid or minimize potential adverse effects on wildlife and their habitat.

Consistent with Public Access Policy No. 8, the proposed project will provide a walkway along the waterfront (the City of Berkeley shoreline), and will provide a diverse and interesting public access experience (a shoreline trail adjacent to San Francisco Bay) that will encourage users to remain in designated public access areas in order to minimize adverse effects on wildlife and their habitat. Similarly, the access ramp will provide a diverse and interesting public access experience to the San Francisco Bay. Potential adverse effects on wildlife and their habitat will be minimized by containing boat launches to the designated area of the park.

Public Access Policy No. 10 states:

Federal, state, regional and local jurisdictions, special districts and the Commission [BCDC] should cooperate to provide appropriately sited, designed and managed public access, especially to link the entire series of shoreline parks, regional trail systems (such as the San Francisco Bay Trail) and existing public access areas to the extent feasible without additional Bay filling and without significant adverse effects on Bay natural resources.

Closing gaps between existing public access areas is a high priority for BCDC and the Conservancy. The proposed project is consistent with this policy because it links existing parks and trails to the existing Bay Trail and enhances access to the Bay.

**CONSISTENCY WITH CONSERVANCY'S  
PROJECT SELECTION CRITERIA & GUIDELINES:**

The proposed projects are consistent with the Conservancy's Project Selection Criteria and Guidelines adopted June 4, 2009 in the following respects:

**Required Criteria**

- 1. Promotion of the Conservancy's statutory programs and purposes:** As discussed under Consistency with Conservancy's Enabling Legislation, the project is consistent with Chapter 4.5 of Division 21 of the Public Resources Code because it will improve public access to the Bay, and provide natural areas that are accessible to urban populations for recreational purposes.
- 2. Consistency with purposes of funding source:** As discussed under the "Project Financing" section above, it is anticipated that the project will be funded by the Conservancy's FY 08 appropriation of Proposition 84 to the San Francisco Bay Area Conservancy Program.
- 3. Support from the public:** The development of the Bay Trail Extension and the boat ramp has the support of many of the ESSP planning participants. The City has worked closely with the Bay Trail Program, the District and State Parks and many citizens groups to make these additions to the parks possible. See Exhibit 5 for letters of support.
- 4. Location:** The project lies within the eastern shore of San Francisco Bay, Alameda County, and within the San Francisco Bay Area Conservancy Program area.
- 5. Need:** To date, public agencies have spent \$34,000,000 on the acquisition, remediation and planning for the ESSP. A primary goal of the ESSP General Plan is to provide safe and effective public access in designated areas; the Bay Trail Extension and ramp will help fulfill that goal. Conservancy funding is needed match funds for the Federal Transportation Bill / MTC grant funding obtained by the City. If the City does not obtain matching funds, then it will not be able to complete the project.
- 6. Greater-than-local interest:** The trail and water access ramp will greatly enhance a State Park that spans approximately eight miles of the San Francisco Bay shoreline and includes the cities of Oakland, Emeryville, Berkeley, Albany, and Richmond with an estimated combined population of well over 600,000. These projects will enable this park to better serve local residents as well as potential millions of visitors per year to the metropolitan Bay Area. Located near major freeways and other transportation routes, this park is one of the most accessible places in the Bay Area.
- 7. Sea level rise vulnerability:** The trail will be located approximately at an elevation of 12 feet (ft), or about 4 meters (m), above mean lower-low water (MLLW). High tide demarcations at the site were observed by the City's consultant to be at 8 feet or 2.4m above MLLW. Current sea-level rise predictions are that there will be a rise in average water surface elevations of 0.4m by year 2050 and a 1.4m rise by 2100.<sup>1</sup> Therefore the trail will not be subject to inundation by tidal waters due to sea level rise. Likewise the water access ramp at the Marina will be built at the elevation of the streets and parking lot and useable portions of it will be above normal flood elevations for many decades to come.

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<sup>1</sup> Bay Conservation and Development Commission Draft Staff Report and Preliminary Recommendation for Proposed Bay Plan Amendment 1-08, Concerning Climate Change, May 7, 2009.

**Additional Criteria**

- 8. Urgency:** The City must undertake this project in order to take advantage of the MTC / federal transportation grant. The City wishes to advertise and take bids for this project in June of this year, so it is critical that the City has all funding in place to implement the project.
- 9. Resolution of more than one issue:** Park development will protect shoreline vistas, reduce potential conflict between active recreation and environmental protection at ESSP, and expand the shoreline trail network.
- 10. Conflict resolution:** The project will address environmental concerns raised by park planning participants regarding the lack of public access by completing a gap in trail access between the existing Bay Trail and the trails and paths located within the Berkeley Marina. Additionally the access ramp was included in the ESSP General Plan as an improvement to current access over the riprap shoreline. Failure to carry out the vision expressed in the ESSP General Plan may create further conflict about these important planning goals.
- 11. Readiness:** Should this proposed resolution be adopted the City plans to advertise and take bids for this project in June of this year. The City has experience in carrying out construction projects similar to this one and has the staff necessary to carryout the project.
- 12. Realization of prior conservancy goals:** This section of shoreline has been a priority for Conservancy funding over the last few decades (as discussed in the “Project History” section above). The Conservancy was one of the funders of the ESSP General Plan and a primary funder of the San Francisco Bay Trail, and this project will further the goals of the ESSP General Plan as well as enhance the shoreline region and add to the San Francisco Bay Trail.
- 13. Minimization of Greenhouse Gas Emissions:** As an extension of the San Francisco Bay Trail, the project will serve a local and regional population that normally travels to the Berkeley Marina, and Cesar Chavez Park using automobile travel. This project will create a significantly safer and more pleasant route for pedestrians and bicycles to access the marina; thereby, closing a non-motorized “gap” between the streets of Berkeley and the Marina and Park trails and paths to the west (Exhibit 2A). Furthermore, the water access ramp may decrease vehicle miles travelled by offering nearby residents a closer alternative to the other Bay Area ramps, which are located in San Francisco, Oakland and Sausalito.

**COMPLIANCE WITH CEQA:**

Pursuant to the California Environmental Quality Act (“CEQA”), the City, as lead agency, prepared an Initial Study and Mitigated Negative Declaration (MND) for the Bay Trail Extension to the Berkeley Marina project (“Trail Extension Project”). The project to be funded by the Conservancy is a portion of the Trail Extension Project consisting of construction of a segment of the trail and a water access ramp. The MND does not separately identify the impacts of the portion of the Trail Extension Project that is proposed to be funded by the Conservancy. Therefore, this discussion addresses the entire Trail Extension Project. The draft MND was noticed and circulated for public review on September 19, 2003. The comment period ended on October 22, 2003. A public hearing was held on October 8, 2003 to solicit verbal comments. A total of sixteen letters of comment were received from state government agencies, special interest organizations and the general public. On January 27, 2004, the City adopted the MND and Mitigation Monitoring Program (“MMP”) and



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approved the project. (Exhibit 3) The City filed a Notice of Determination with the State Clearing-house and the County of Alameda on February 5, 2004.

The Initial Study and MND identified twelve areas of potentially significant impacts of the proposed Trail Extension Project in the areas of aesthetics, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, public services, recreation and transportation/traffic. Mitigation measures were adopted to ensure that these potential impacts are avoided or reduced to less-than-significant levels as summarized here:

Aesthetics: The proposed project will result in the removal of ninety-eight trees greater than six inches in diameter at breast height (dbh). However, no indigenous or specimen trees will be removed. To ensure a less than significant impact, all trees removed will be replaced; any tree greater than six inches in dbh will be replaced at a ratio of 4:1. Additionally, consideration of tree root growth in tree placement, irrigation and maintenance will be included as part of the plan.

Air Quality: Dust and exhaust emissions could be produced during the construction phase of the project. To mitigate this potential impact and to ensure the dust emissions from construction will not violate any air quality standards or contribute substantially to an existing projected air quality violation, the City must prepare a grading plan for review and approval by the City of Berkeley Planning Department. The grading plan must include, but not be limited to the twice daily watering of disturbed soils as necessary during dry periods, proper maintenance of construction equipment and other Best Management Practices to reduce windblown dust. As part of the grading plan, Basic Control Measures for all construction sites and Enhanced Control Measures for sites greater than four acres as fully described in the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines shall be followed.

Biological Resources: The project site is habitat for the Burrowing Owls (*Athene cunicularia hypugea*), the White Tailed Kite (*Elanus leucurus*), the Cooper's Hawk (*Accipiter cooperii*), the Red Tailed Hawk (*Bueto jamaicensis*), and the Red Shouldered Hawk (*Bueto lineatus*). Wintering Burrowing Owls have been observed at the project site but no nesting has been recorded within the project site or vicinity. The Owl is designated as a California Species of Special Concern, but is not state or federally listed as endangered or threatened. On March 28, 2003 a biologist searched for Burrowing Owls and their signs within suitable habitat at the site. No Owls or signs were present at the site. To mitigate any potential impacts to the Owl, additional surveys must be completed thirty days prior to construction following the CDFG survey protocols to verify the Owls are not present before construction begins. If any Owls burrows are discovered, a construction buffer will be constructed at a minimum of radius of 160-feet around each occupied burrow during non-breeding season and 250-feet around each occupied burrow during breeding season. During non-breeding season if the barrier cannot be maintained the Owls must be passively relocated, subject to prior CDFG approval. The Owls may not be relocated during breeding season. If the project is delayed or suspended for more than 30 days the project area has to be re-surveyed.

The trees in the project area provide potential nesting habitat for White Tailed Kite (a California Fully Protected Species) and other tree nesting raptors like the Cooper's Hawk (a California Species of Special Concern), the Red Tailed Hawk, and the Red Shouldered Hawk. In 1994 a pair of white Tailed Kites were observed nesting on the North side of the Marina. However, the relatively high use of the project site by visitors and dogs reduces the likelihood that any raptors will nest here in the future. No raptors, nests or potential nests were observed during the site visit on March 28, 2003, but it is possible raptors would nest within the project site and be adversely affected by the project. These potential adverse affects will be mitigated by surveying trees greater than 15-feet tall 30 days prior to removal. If any White Tailed Kite, the Cooper's Hawk, the Red Tailed Hawk, and the Red Shouldered Hawk or other active raptor nests are found in or within 200-feet of the project site, a 200-foot buffer from the dripline of the tree must be established. No construction activities may be conducted within the buffer zone until the nestling raptors have left the nest.

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Although unlikely to have potential significant on-site impacts to any other special status plant or animal, the Trail Extension Project could result in off-site impacts due to the disposal of soils contaminated by perennial pepperweed. The pepperweed, a highly invasive species, has been observed on the project site. If soil removed to an offsite location contained parts of root stock or seeds from the pepperweed it could contaminate and substantially degrade habitat for special status wildlife and plants. This impact will be mitigated through inspection of the excavated soil by a qualified botanist who will identify those areas contaminated with pepperweed seeds or root stock. Soils that are clear of seeds or root stock can be disposed of on site. Contaminated soil must be disposed of in a qualified landfill.

The only sensitive natural communities in the project area or vicinity are wetlands and other waters of the United States. Impacts to these resources are regulated by the U.S. Army Corps of Engineers (Corps) under Section 404 of the Clean Water Act. Permits from the Corp and the San Francisco Regional Water Quality Control Board (RWQCB) are generally required for fill, excavation, or dredging of such wetlands or waters. Additionally, the San Francisco Bay Conservation and Development Commission (BCDC) will require a permit for filling, dredging and construction of structures over the Bay. To mitigate any potentially significant impacts caused by the commencement of these regulated activities and project features, the City of Berkeley will obtain permits from the Corp, RWQCB and BCDC for impacts within the jurisdiction of those agencies. The City must comply with the terms and conditions of those permits, including mitigation measures if required.

There are two small, seasonal wetlands located in the ruderal/non-native grassland of the project area, west of the Strawberry Creek outfall and south of University Avenue. These wetlands may be protected under Section 404 of the Clean Water Act. While these wetlands have limited value, due to their small size, close proximity to University Avenue, the high level of disturbance caused by visitors, dogs, mowing and the documented lack of standing water, potential impacts to the wetlands will be mitigated by establishing a 10-foot wide buffer around the wetlands inside of which no construction equipment or disturbances may be allowed. Also, silt fencing will be properly installed and maintained around the outer edge of the buffer.

An increase in visitors may accompany the improvements and increase the amount of trash in receptacles along the path. Increased trash may attract predators such as skunks, raccoons, rats and opossum, artificially increasing predatory populations threatening other species. Potential impacts caused by the increase in predators is reduced to less than significant levels by installing trash receptacles designed to be inaccessible to animals.

Cultural Resources: The project will be located on fill material and bay mud. Archaeological resources are not expected to exist in the project area. There is however, a low potential that resources may be encountered during construction of the bridge over Strawberry Creek. Therefore, the City has prepared a mitigation measure that addresses this possible impact by, among other things, halting work if archaeological resources are found, investigation by a qualified archaeologist, evaluation of the resource and potential excavation.

Geology and Soils: There are many parallel faults in the project vicinity. The closest fault is the Hayward fault, and the proposed project is in a zone of strong shaking should it produce an earthquake. The proposed Strawberry Creek Bridge would be at risk of damage from strong seismic shaking. However, by engaging a licensed engineer to design the bridge in conformation with the seismic design standards of Caltrans and the Uniform Building Code impacts may be reduced to less than significant levels. Additionally, construction activities will temporarily result in unstable soil conditions that can lead to topsoil loss and erosion. To mitigate this impact the City Public Works Department will review the grading plan to insure that it incorporates Best Management Practices designed to minimize sediment in site runoff during construction. Furthermore, earthmoving activities may not occur in the rainy season.

Hazards and Hazardous Materials: Minimal ground and soil disturbance is necessary for construction of the path and the pile supported bridge over Strawberry Cove. The soils in this area contain some chemicals of potential concern (COPC). Therefore, excavated and exposed soils will be tested for petroleum, hydrocar-

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bons, metals and CPOCs. Soils that are considered unsafe will be disposed of appropriately. If exposed soils contain CPOCs, a layer of uncontaminated soil will be imported and filled over existing soil. The City will coordinate with the California Department of Toxic Substance Control Voluntary Cleanup Program and take proper steps to ensure proper cleanup and disposal of contaminated soils.

Hydrology and Water Quality: Construction activities will potentially affect water quality through erosion. Therefore, grading plan is required to follow Best Management Practices designed to minimize sediment in site runoff during construction. Furthermore, earthmoving activities may not occur in the rainy season.

Land Use and Planning: Several land use plans, policies and regulations are applicable to the project area. Permits shall be obtained from City of Berkeley, California Department of Parks and Recreation, BCDC and the State Lands Commission

Noise: Construction equipment and pile driving will generate high intermittent noise levels. The noise generation would only be during construction periods. Sound impacts are reduced to less than significant levels by the use of noise control equipment. Additionally, during pile driving signs shall be posted 500 feet from the site warning of increased levels of sound.

Public Services: Project construction will result in the loss of a portion of Seawall Drive. Traffic will be redirected through the parking lots. Current fire protection and EMT services could suffer from a decrease in response time. This potentially significant impact is reduced to less than significant by the creation and maintenance of fire lanes through the parking lots that meet the standards of the Uniform Fire Code and the City of Berkeley Planning Department.

Recreation: During the phased construction of the project portions of the existing trail and facilities will be inaccessible to the public. To mitigate these impacts to less than significant levels surrounding facilities shall remain open to the extent feasible and alternate entrances and access paths shall be provided at the marina.

Transportation/Traffic: The proposed project may increase hazards due to design features. Certain areas of the trail involve multiple use intersections and create a potentially significant impact. Impacts can be reduced to less than significant levels with safety signs and pavement markings. Additionally, there is no posted speed limit in the parking lots. Signs designating the 15 miles per hour limit shall be posed.

Conservancy Staff has independently reviewed the final Initial Study and Mitigated Negative Declaration prepared by the City of Berkeley and concurs that the portion of the project to be funded by the Conservancy, as mitigated, does not have the potential for a significant effect on the environment. Staff, therefore, recommends that the Conservancy find that there is no substantial evidence that the project, as mitigated, will result in a significant effect on the environment as defined in 14 California Code of Regulations Section 15382. Upon approval, staff will file a Notice of Determination for the project.